

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

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:: JUDGMENT ::

LRs. of Shankerlal & Anr. Vs. Raghunath & Anr.

S.B.CIVIL MISC. APPEAL NO.70/1993.

Against the award dated 23.01.1993
made by the Motor Accidents Claims
Tribunal, Udaipur in Claim Case
No.9/1990.

Date of Judgment ::: 06.10.2006.

PRESENT

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr. A.K.Rajvanshy, for the appellants
Mr. P.K.Bhansali, for the respondents

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BY THE COURT:

This is claimants' appeal seeking enhancement over the amount of compensation awarded by the Motor Accidents Claims Tribunal, Udaipur in its award dated 23.01.1993 in Claim Case No.9/1990 in a lump sum of Rs.45,000/- on account of accidental death of Prakash, 15 years in age, son of the claimants. Only quantum of compensation being the subject matter of this appeal, a brief reference to the background facts would suffice.

Deceased Prakash while riding his bicycle on 11.09.1989 at about 2.00 p.m. taking his sister-in-law with him and going from Hiran Magri to Udaipur City was hit from behind by a bus bearing registration No.GRU 9497 belonging to non-applicant No.2 and driven by non-applicant No.1. The victim sustained grievous injuries and succumbed to injuries two days after the accident.

In their claim application, while narrating the incident aforesaid, the claimants stated that deceased was 15 years of age and was student of 9th standard and while attending the school in day hours he was working as a hair-dresser in the morning and evening and earning about Rs.700/- per month; that the deceased was aspiring to study well and to take up the profession of a doctor in future; that he would have earned at least Rs.2,000/- per month upto the age of 70 years and would have extended monetary contribution to the claimants. Stating various losses, the claimants claimed an amount of Rs.4,03,250/- towards compensation. The claim application was contested by the non-applicants, inter alia, with the submissions that the accident occurred for the negligence of the deceased himself. After framing of necessary issues and taking evidence, the Tribunal proceeded to decide in issue No.1 that the accident occurred for rash and

negligent driving of the vehicle in question. While taking up quantification of compensation in issue Nos.2 and 3 the Tribunal referred to the pleadings and then the evidence produced on record and the status of the family of the deceased and the agony of the claimants for death of their young son but then abruptly concluded that a lump sum of Rs.45,000/- may be awarded as just compensation. The Tribunal has observed thus:

“अतः उक्त सभी तथ्यों पर गंभीरता से विचार करने के उपरान्त प्रार्थीगण द्वारा सभी मदों में मांगी गई राशि के रूप में एक मुश्त 45,000/- रुपये की राशि दिलाई जाना न्यायोचित पता हूँ और शेष राशि का क्लेम निरस्त किया जाता है। उक्त राशि में पूर्व में अंतरिम अदा की गई राशि समायोजित की जायगी।”

Assailing the award aforesaid, learned counsel Mr. A.K. Rajvanshy appearing for the claimants has contended that the Tribunal has been seriously in error in awarding a lump sum of Rs.45,000/- towards compensation to the parents of 15 years old victim of vehicular accident and the amount awarded by the Tribunal stands on exceptionally lower side denying just compensation to the claimants. Per contra, learned counsel Mr. P.K. Bhansali appearing for the contesting respondent has duly supported the impugned award and has submitted that though the award has been made in lump sum but because of the facts that only mother

of the deceased could be said to be the person rightfully entitled to amount of reasonable compensation; she having two other grown up sons was not dependent on the deceased and was not likely to wholly depend on him in future; and in the overall facts and circumstances, the quantum of compensation awarded by the Tribunal cannot be said to be grossly inadequate so as to warrant interference in appeal.

Having given a thoughtful consideration to the submissions and having scanned through the entire record, this Court is clearly of opinion that the award made by the Tribunal remains grossly inadequate and too low and deserves suitable modification with upward revision.

The facts are not in dispute that the deceased was 15 years of age and was the younger son of the claimants and was studying in 9th standard. Even if the deceased be taken to be a non-earning person at the time of his demise and for the purpose of assessing just compensation, a notional income figure is adopted and further, even if a substantial deduction is made from the notional income towards the figure of contribution for the claimants, yet the amount available for the claimants remains substantially higher than what has been arrived at by the Tribunal in its lump sum unreasoned award.

The Tribunal has of course referred to a part of evidence on record and the family set up but then has abruptly jumped to the conclusion that Rs.45,000/- would be of just compensation. This Court is clearly of opinion that the award of compensation by the Motor Accidents Claims Tribunal ought to be based on some rationale, some basis and some principles and the short-cut of awarding compensation in lump sum cannot be adopted in every case. May be in a given case in view of overall circumstances the award in lump sum could be held justified but ordinarily it is expected of the Tribunal to assess the loss for the claimants by application of relevant principles and not to adopt the methodology of simply choosing a particular figure for awarding compensation. Such an approach obviously carries with it traces of whims and arbitrariness. Making of the award in lump sum has resulted in gross injustice to the claimants in the present case and hence the award impugned cannot be approved.

Even if the deceased be taken a non-earning person and his notional income is adopted at Rs.15,000/- per annum; and the fact that he was an unmarried person and a substantial part of his earning in future was likely to get diverted on his own family is also taken into consideration; and the family set up of the claimants having other children is also kept in view; and, therefore, only 50% of total notional

income figure i.e. Rs.7,500/- per annum is taken towards loss of contribution for the claimants and only a multiplier of 15 is applied, yet the pecuniary loss itself stands in the sum of Rs.1,12,500/- (Rs.7,500/- x 15) and there appears no reason to deny compensation for this much of the pecuniary loss to the claimants. It is true that father of the deceased expired during pendency of the claim application and his legal representatives were taken on record but the fact remains that the mother of deceased continued to be the claimant and in view of family set up, reasonable contribution by the deceased to the claimants on record cannot be denied. In the circumstances of the case, this Court is of opinion that another sum of Rs.10,000/- could be allowed towards non-pecuniary loss and yet another Rs.2,500/- towards funeral expenses.

Therefore, even on a conservative estimate, the loss for the claimants stands at Rs.1,25,000/- (Rs.1,12,500/- + Rs.10,000/- + Rs.2,500) and there appears no reason to deny the claimants this much as minimum compensation. Obviously, the figure arbitrarily stated by the Tribunal of Rs.45,000/- falls too short of just compensation and cannot be approved.

In view of the substantial enhancement being allowed herein, it appears appropriate to allow interest on the

enhanced amount at the rate of 6% per annum from the date of filing of claim application.

As a result of the aforesaid, this appeal succeeds and is partly allowed to the extent indicated above. The claimants are awarded compensation in the sum of Rs.1,25,000/- in place of the amount of Rs.45,000/- awarded by the Tribunal. The claimants shall, therefore, be entitled for a further amount in the sum of Rs.80,000/- and so also interest on this enhanced amount of award at the rate of 6% per annum from the date of filing of claim application.

The amount payable under the modified award shall be deposited by the respondent No.2 within 30 days with the Tribunal and the Tribunal shall carry out appropriate apportionment and disbursement of the award amount. The parties shall bear their own costs of this appeal.

(DINESH MAHESHWARI), J.

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